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IN THE

Supreme Court of the United States

October Term, 1955

No. 812

JOHN SINCERBEAUX,
Petitioner,

—v.—

FRANK T. HANLON,
Commissioner of Public Safety of the
City of White Plains, New York
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

REPLY BRIEF FOR PETITIONER

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Petitioner has asserted that three times before the opening of the administrative hearing, the Respondent trier of fact announced the predetermined result (Petition, pp. 5, 7-8, 9-10) and that, "None of these statements are denied by respondent (R. 345-347, ff. 1033-1041)," (Petition, p. 8). The Brief in Opposition asserts that these "statements are herein denied as having been made and were denied before the Supreme Court, Appellate Division, and the Court of Appeals of the State of New York" (p. 4). The Record, referred to *supra*, shows only a perfunctory denial by counsel, Vincent Del Tufo, and not a denial by Frank T. Hanlon, the Respondent and the person alleged to have made the statements and consequently the only person competent to deny having made them. The Brief in Opposition further states that these statements

"are not part of the record of the [administrative] trial" (p. 4). They are not simply because every effort to put them into proof was frustrated by the Respondent who, in addition, refused to testify although subpoenaed and called as a witness (Petition, pp. 8, 12). See *New York* v. *United States,* 331 U. S. 284, 332-333, distinguishing the case of *Baltimore & Ohio R. Co.* v. *United States,* 298 U. S. 349, 363, 371, 372. Of course, it is Petitioner's position that a fair opportunity to be heard would have supplied an administrative trial record with no substantial evidence supporting the charges against him.

The so-called denial by counsel for Respondent is preceded in the Record by his sworn admission that each of the three Federal Constitutional questions presented in the Petition before this Court had been passed upon in the original State court proceedings:

> "All of the arguments advanced by the petitioner in his motion for leave to reargue were before this court [the Appellate Division] and before the Court of Appeals" (R. 346, f. 1038).

The "arguments advanced by the petitioner in his motion for leave to reargue", identical with the three questions presented in the Petition (pp. 4-5), appear in the Record (R. 333-336, ff. 999-1006).

Respectfully submitted,

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